

PRISON ISSUES BOARD COMMENTS

RE: NON AGENDA ITEMS: By Robert and Barbara Rose

Pursuant to Montana's Constitution and Montana's Open Meeting and Participation Laws, Robert and Barbara Rose submit the following comments. We fully expect that the comments presented by us and other members of the public should influence the MDOC's actions with respect thereto.

#1 PUBLIC PARTICIPATION IN MDOC DECISIONS PURSUANT TO MCA 2-3-103:

Our honorable Governor Schweitzer has made his position very clear concerning his subordinate state agency's adhering to Montana's Open Meeting and Participation Laws. He has sent written directives and memorandums clarifying the importance of Montana's Constitutional and Statutory mandates. Please see attached letter and memorandum in comments (page 9-11) made by Barbara Rose for January 2011 meeting. He has sent these to all of his Executive Branch offices every year since 2006.

He clearly instructs that the agencies (to include MDOC) are to adopt and or develop procedures for permitting and encouraging the public to participate in agency decision before they are finalized.

What has MDOC done to comply with such directives? Just allowing a period for the public to comment does not equate with encouraging members of the public to participate in MDOC decisions.

If the MDOC believes that the public has no right to participate in PIB discussions, then at what meeting is the public allowed to influence MDOC's decision making process concerning its prisons? Montana's Constitution in no way expressed that Montana's Prison System was exempt from following Montana's Open Meeting and Participation Laws. Neither has the Legislation.

In the Governors directive he states:

"Montanans have a Constitutional right to participate in the activities of their government."

And that's exactly what the writers of our Constitution intended.

It's time MDOC and all of its agents and employees start adhering to the Governors orders and Montana's Public Policy. The prison system would run more efficiently and smoothly.

Additionally, the legislation had mandated that MDOC develop and adopt rules and procedures that encourage public participation. Where are they? How many years will this go on without them? Can anyone find them on the MDOC Policy page? NO..... they are no where to be found. Ironically, they are to be made available to the public upon request.

So, Robert and Barbara Rose hereby specifically request them.

#2 MONTANA STATE PRISONS BROKEN CLASSIFICATION SYSTEM.

In the last two or three years the classification system at the Montana state Prison is not followed. There are inmates in Close-I who are classified to Close-II and even the Low Side, that is if you follow the classification point system. Inmates point out to a unit custody, but are placed somewhere else, most often for staff's arbitrary and retaliatory reasons. Unit managers hold "secret meetings" to discuss such matters far from the publics eye. Hence, no accountability for their life-changing decisions.

Example, a few months ago, an inmate who scored to be placed in Close-II when he arrived from Shelby, was instead placed in Close-I, a higher custody level. Within 12 hours he was almost beaten to death. He was taken to the hospital for emergent care before being placed in the prison infirmary for more than a month. Ironically, when the inmate arrived in Close-I he specifically requested to not be placed on Lower-A block where the assault later took place. Unit management informed him he would not choose where he was celled. Nice result huh? A very expensive decision that almost cost a man his life. Had he been placed in close-II where he scored he would have been fine. Ironically, when he was released from the infirmary, he was placed in Close-II where he scored in the first placed and is doing fine and has no problems.

Another example, there are many Close-I inmates who score to a low side unit who are housed in a higher custody unit. Many are awaiting groups but unit management wont classify them accordingly so they can go to low side to complete such groups.

Either there is a classification point system in place or there is not! Unit management and Admin-review team override more inmates to other custody levels than where they score, most often arbitrarily. If there are more inmate on override rather than where they score what's the use in scoring them?

ACA Standards should be applied and MSP Classification Policies should be re-written to reflect that.

As important; inmates should enjoy working their way to a lower custody level, with opportunity to advance every six months. (see ACA Standards). The current policy and practice at MSP allows staff to place an inmate in close custody for 3 years even if he completes all programming and keeps clear conduct. Such practice is ridiculous to say the least! A step down program that allows inmates to step down levels from the shu-to max-to close-I (level1-8) should continue through Close-I. An inmate can progress to level 8 in Close-I in six months and then have to be housed there for another 2 ½ years before he can progress again. Seems this is the administrations way to warehouse inmates on the high side at the expense of rehabilitation. Allowing inmates to progress every six months would alleviate population crowding on the high side and would encourage positive change in inmates but that's not what the MDOC wants is it?

#3 VISITATION

Visitation times have been creeping up to the hour later mark than posted times lately. When policy states visitors are allowed to enter the prison at 2:15 but we have to wait for a van to bring us onto prison property and it comes at 2:30 and slowly passes by all of the cars waiting in line and officers stare at us and take their sweet time going all the way down to the end of the road and turning around and slowly driving back up to the front of the line and bringing us through it is 2:35 or later and then by the time everyone is processed it is 3:00 and inmates start coming to visits at 3:10 sometimes later. If the command post is going to continue to diminish our visiting time (which is only a few hours. I travel longer in my car to get there than I get to visit.) by an hour we ask that you extend visiting times. Something we are quite sure you are unwilling to do. We know the answer to this statement will be that visitation is a privledge and can be taken away at any time. A threat we are sick of hearing! Follow your policy. Allow us to visit at the posted time by getting your staff processing visitors on time.

Also, using the excuse that count hasn't cleared doesn't fly either when inmates are waiting on their visit and count had cleared an hour prior.

All we ask is for policy to be followed. It seems that this will happen for a period of time then all of a sudden the officers don't take the first group through at 2:45 like Warden Mahoney told them to. Another example of just how convoluted and muddy policy is at MSP.

AGENDA ISSUES:

#1 INMATE PAY POLICY:

The inmate pay policy went into effect in July. Who would have thought the administration would go so far as to cut inmate jobs and cut pay for inmates? Many jobs that paid \$2.00 a day are now \$1.25 or as low as .64 cents a day. Especially considering there is a surplus in the IWF to cover raises. All inmates should have gotten raises. More inmate positions got cuts rather than more pay.

This policy needs to be revised as soon as possible.

#2 CORRESPONDENCE POLICY

This policy is already being pushed through. Now inmates are told they can no longer have subscriptions to magazines. MDOC has not been given any legal authority to take such action.

Colleen Ambrose warned the PIB two years ago that this would cause litigation yet such legal advice is ignored- why pay a legal advisor for advise if you're going to ignore it? Now the department can and will be spending tax payer monies to litigate this policy decision. MCE has no lawful authority to regulate the sale of magazines through Canteen. NONE!

MDOC/MCE are committing Civil Rights violations by the implementation of this policy which constitutes mistreatment of prisoners- a felony under Montana Law.

This policy needs revised to reflect no restrictions on inmate subscriptions to magazines or books. Such is protected by freedom of speech and expression under Montana and US Constitution.

#3 NEW CONSTRUCTION FOR 120 BEDS FUNDS

MDOC/MSP should utilize the money given by the Legislature for 120 beds to build a Low side Unit rather than a High Side Unit to relieve the holding of Low side inmates in High Side Units.

It would also encourage incentive for High Side inmates to progress to Low Side faster.

Building another High Side Unit would exacerbate the warehousing of High Side inmates for long periods.

By: Robert and Barbara Rose